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FILED

MAR 24 2011

DEPARTMENT OF REAL ESTATE

By K. Mar

DEPARTMENT OF REAL ESTATE  
P. O. BOX 187007  
SACRAMENTO, CA 95818-7007  
TELEPHONE: (916) 227-0789

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of )

KATINA MICHELLE UMPIERRE )  
and ALAN ALTAS, )

Respondents. )

No. H-5345 SAC

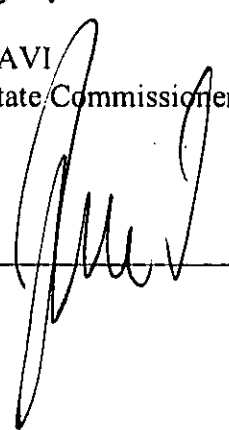
DISMISSAL

The Accusation herein filed on February 3, 2010 is DISMISSED as to  
Respondent ALAN ALTAS, only.

IT IS SO ORDERED

3/22/2011

JEFF DAVIS  
Real Estate Commissioner



1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0789

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DEC - 8 2010

DEPARTMENT OF REAL ESTATE

By K. Mat

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

|                                       |   |                                     |
|---------------------------------------|---|-------------------------------------|
| 11 In the Matter of the Accusation of | ) | DRE No. H-5345 SAC                  |
|                                       | ) |                                     |
| 12 KATINA MICHELLE UMPIERRE           | ) | <u>STIPULATION AND AGREEMENT</u>    |
| 13 and ALAN ALTAS,                    | ) | <u>IN SETTLEMENT AND ORDER</u>      |
|                                       | ) |                                     |
| 14 Respondents.                       | ) | (For Katina Michelle Umpierre Only) |
| 15                                    | ) |                                     |

16 It is hereby stipulated by and between KATINA MICHELLE UMPIERRE  
17 (Respondent), her attorney, Christopher K. Eley and the Complainant, acting by and through  
18 Richard K. Uno, Counsel for the Department of Real Estate; as follows for the purpose of  
19 settling and disposing of the Accusation filed on February 3, 2010, in this matter:

20 1. All issues which were to be contested and all evidence which was to be  
21 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing  
22 was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),  
23 shall instead and in place thereof be submitted solely on the basis of the provisions of this  
24 Stipulation and Agreement In Settlement and Order.

25 2. Respondent has received, read and understands the Statement to Respondent,  
26 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate  
27 in this proceeding.

1                   3. On February 8, 2010, Respondent filed a Notice of Defense pursuant to  
2 Section 11505 of the Government Code for the purpose of requesting a hearing on the  
3 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice  
4 of Defense. Respondent acknowledges that she understands that by withdrawing said Notice of  
5 Defense she will thereby waive her right to require the Commissioner to prove the allegations in  
6 the Accusation at a contested hearing held in accordance with the provisions of the APA and  
7 that she will waive other rights afforded to her in connection with the hearing such as the right  
8 to present evidence in defense of the allegations in the Accusation and the right to cross-examine  
9 witnesses.

10                   4. Respondent, pursuant to the limitations set forth below, hereby admits that the  
11 factual allegations or findings of fact as set forth in the Accusation filed in this proceeding are  
12 true and correct and the Real Estate Commissioner shall not be required to provide further  
13 evidence of such allegations.

14                   5. It is understood by the parties that the Real Estate Commissioner may adopt  
15 the Stipulation and Agreement In Settlement and Order as his Decision in this matter, thereby  
16 imposing the penalty and sanctions on Respondent's real estate license and license rights as set  
17 forth in the below "Order". In the event that the Commissioner in his discretion does not adopt  
18 the Stipulation and Agreement In Settlement and Order, it shall be void and of no effect, and  
19 Respondent shall retain the right to a hearing and proceeding on the Accusation under all the  
20 provisions of the APA and shall not be bound by any admission or waiver made herein.

21                   6. The Order or any subsequent Order of the Real Estate Commissioner made  
22 pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an  
23 estoppel, merger or bar to any further administrative or civil proceedings by the Department of  
24 Real Estate with respect to any matters which were not specifically alleged to be causes for  
25 accusation in this proceeding.

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27 ///

1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions and waivers, and solely for  
3 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed  
4 that the acts and/or omissions of Respondent, as described in the Accusation, constitute grounds  
5 for the suspension or revocation of the licenses and license rights of Respondent under the  
6 provisions of Sections 10176(a), (c) and (i) and 10177(j) of the Business and Professions Code  
7 (the Code).

8 ORDER

9 1. All licenses and license rights of Respondent KATINA MICHELLE  
10 UMPIERRE under the Real Estate Law are suspended for a period of ninety (90) days from the  
11 effective date of this Order; provided, however, that forty-five (45) days of said suspension shall  
12 be stayed for two (2) years upon the following terms and conditions:

13 (a) Respondent UMPIERRE shall obey all laws, rules and regulations  
14 governing the rights, duties and responsibilities of a real estate licensee in the State of  
15 California; and

16 (b) That no final subsequent determination be made, after hearing or upon  
17 stipulation, that cause for disciplinary action occurred within two (2) years from the effective  
18 date of this Order. Should such a determination be made, the Commissioner may, in his  
19 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed  
20 suspension. Should no such determination be made, the stay imposed herein shall become  
21 permanent.

22 2. The remaining thirty (45) days of said 90 day suspension shall be stayed upon  
23 the condition that Respondent UMPIERRE petition pursuant to Section 10175.2 of the Business  
24 and Professions Code and pay a monetary penalty pursuant to Section 10175.2 of the Code at  
25 the rate of \$100.00 for each day of forty five (45) days of the suspension for a total monetary  
26 penalty of \$4,500.00.

27 ///

1 (a) Said payment shall be in the form of a cashier's check or certified check  
2 made payable to the Recovery Account of the Real Estate Fund. Said check must be received by  
3 the Department prior to the effective date of the Decision in this matter.


4 (b) No further cause for disciplinary action against the real estate license of  
5 Respondent occurs within one year from the effective date of the Decision in this matter.

6 (c) If Respondent fails to pay the monetary penalty in accordance with the terms  
7 and conditions of the Decision, the Commissioner may, without a hearing, order the immediate  
8 execution of all or any part of the stayed suspension in which event the Respondent shall not be  
9 entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department  
10 under the terms of this Decision.

11 (d) If Respondent pays the monetary penalty and if no further cause for  
12 disciplinary action against the real estate license of Respondent occurs within two (2) years from  
13 the effective date of the Decision, the remaining forty-five (45) days of said ninety (90) day  
14 suspension will be stayed and the stay hereby granted shall become permanent.

15 3. All licenses and licensing rights of Respondent under the Real Estate Law are  
16 suspended until such time as Respondent provides proof satisfactory to the Commissioner that  
17 Respondent has completed the continuing education course on real estate ethics specified in  
18 subdivision (a) of Section 10170.5 of the Code. The course must have been completed no earlier  
19 than one hundred twenty (120) days prior to the effective date of this Order, and proof submitted  
20 prior to the effective date of this Order, to prevent suspension of Respondent's license pursuant  
21 to this condition.

22  
23 11/1/10  
24 DATED

  
25 RICHARD K. UNO, Counsel  
26 DEPARTMENT OF REAL ESTATE  
27

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I have read the Stipulation and Agreement In Settlement and Order, have discussed it with my attorney, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

10/29/10


DATED

  
KATINA MICHELLE UMPIERRE  
Respondent

*I have reviewed this Stipulation and Agreement In Settlement and Order as to form and content and have advised my clients accordingly.*

10/29/10

DATED

  
CHRISTOPHER K. ELEY  
Attorney for Respondent

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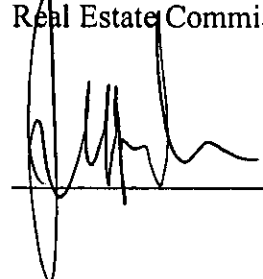
The foregoing Stipulation and Agreement is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on

DEC 30 2010

IT IS SO ORDERED

12/8/2010

JEFF DAVI  
Real Estate Commissioner



1 RICHARD K. UNO, Counsel (SBN 98275)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007  
5 Telephone: (916) 227-2380  
6  
7

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DEPARTMENT OF REAL ESTATE

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10 \* \* \*

11 In the Matter of the Accusation of )  
12 )  
13 KATINA MICHELLE UMPIERRE )  
14 and ALAN ALTAS, )  
15 Respondents. )

NO. H-5345 SAC

ACCUSATION

16 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner  
17 of the State of California for cause of Accusation against KATINA MICHELLE UMPIERRE  
18 (UMPIERRE) and ALAN ALTAS (ALTAS), also known as "Alvin Clair Silbernagel",  
19 collectively referred to as "Respondents", is informed and alleges as follows:

20 1

21 The Complainant makes this Accusation in her official capacity.

22 2

23 ALTAS is presently licensed and/or has license rights under the Real Estate Law,  
24 Part 1 of Division 4 of the California Business and Professions Code (the Code), as a real estate  
25 broker dba Atlas Financial Services.

26 ///

27 ///

1 3

2 UMPIERRE is presently licensed and/or has license rights under the Real Estate  
3 Law, Part 1 of Division 4 of the Code as real estate salesperson, and, at all times mentioned  
4 herein, was employed in her licensed capacity by ALTAS.

5 4

6 At all times mentioned herein, Respondents engaged in the business of and acted  
7 in the capacity of, or assumed to act as, a real estate broker in the State of California within the  
8 meaning of Section 10131(d) of the Code, for or in expectation of compensation, by soliciting  
9 borrowers and lenders and negotiating loans or collecting payments or performing services for  
10 borrowers or lenders in connection with loans secured directly or collaterally by liens on real  
11 property.

12 5

13 On or about July 6, 2006, Respondent UMPIERRE, on behalf of ALTAS,  
14 entered into an agreement with Edward Hardy (Hardy), to negotiate the refinance of the loan on  
15 property owned by Hardy, commonly known as 4204 Savanna Lane, Sacramento, California  
16 (Savanna Property).

17 6

18 During the application process for the refinancing of the loan on the Savanna  
19 Property, Hardy provided personal and financial information to UMPIERRE, including a Form  
20 1040 for a business that Hardy owned known as My Personal Consultant. My Personal  
21 Consultant is a sole proprietorship and at no time had any employees.

22 7

23 On or about January 16, 2007, UMPIERRE, on behalf of ALTAS, agreed to  
24 represent Ramon Guardado and Rosie Guardado, (Guardados) in their efforts to purchase a  
25 residence. On that date, UMPIERRE completed and provided a Uniform Residential Loan  
26 Application (URLA) to the Guardados, which they signed.

27 ///



On or about January 18, 2007, UMPIERRE, on behalf of the Guardados, submitted a Residential Purchase Agreement and Joint Escrow Instructions to the sellers of the real property known as 1112 Sam Street, Modesto, California (Sam Property).

The URLA, which UMPIERRE prepared, stated that Ramon Guardado had been employed for three years as a sales consultant for My Personal Consultant and that his income was \$2,630.00 per month.

UMPIERRE also provided to the Guardados' lender, an income calculation form, employee paycheck inquiry forms and W2s which represented that Ramon Guardado was employed by My Personal Consultant.

The representations made by Respondent UMPIERRE to the lender in the transaction set out above were false, and Respondent UMPIERRE knew that they were false when those representations were made. The true facts were that Ramon Guardado was unemployed, that he was not earning \$2,630.00 per month, or any amount, that he had never worked for My Personal Consultant and that Respondents misrepresented the income and employment of Ramon Guardado to fraudulently induce the lender to fund the loan on the Sam Property.

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondent UMPIERRE under Section 10176(a), (c), and (i) and/or 10177(j) of the Code.

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1 SECOND CAUSE OF ACTION

2 13

3 Complainant refers to Paragraphs 1 through 12, above, and incorporates them  
4 herein by reference.

5 14

6 At all times herein above mentioned, ALTAS was responsible, as the employing  
7 broker of UMPIERRE, for the supervision and control of the activities conducted by  
8 UMPIERRE which required a real estate license. ALTAS failed to exercise reasonable  
9 supervision and control of UMPIERRE's activities in the Sam Property transaction. In  
10 particular, ALTAS permitted, ratified and/or caused the conduct described in the First Cause of  
11 Action, above, to occur, and failed to take reasonable steps, including but not limited to the  
12 supervision of employees, and the implementation of policies, rules, procedures, and systems to  
13 ensure the compliance of his employees with the Real Estate Law and the Regulations.

14 15

15 The above acts and/or omissions of ALTAS violate Section 2725 of the  
16 Regulations and Section 10159.5 of the Code and are grounds for disciplinary action under the  
17 provisions of Sections 10177(d) and (h) of the Code.

18 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
19 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
20 action against all licenses and license rights of Respondents under the Code, and for such other  
21 and further relief as may be proper under other provisions of law.

22  
23   
24 TRICIA D. SOMMERS  
25 Deputy Real Estate Commissioner

26 Dated at Sacramento, California,  
27 this 2nd day of February 2010.